

AMENDED IN SENATE MARCH 21, 2006

SENATE BILL

No. 1311

Introduced by Senator Soto

February 16, 2006

An act to add ~~Article 11 (commencing with Section 7740) to Chapter 1 of Division 4 of the Public Utilities Code, relating to railroads; Section 1726 to the Civil Code, relating to liability waivers.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1311, as amended, Soto. ~~Railroads: liability~~ *Liability* waivers.

Existing law provides that everyone is responsible for the result of willful acts and for injury to another occasioned by his or her want of ordinary care or skill in the management of his or her person or property, as specified.

This bill would require any ~~person, firm, or corporation operating a railroad in this state that elects, in the event of a derailment, to offer payment to an affected party for his or her waiver of liability regarding any applicable cause of action, to provide a written translation of the waiver agreement, prior to the execution thereof, in a language in which the person signing the waiver is fluent~~ *settlement, compromise, covenant, release, waiver of liability, or similar agreement, to be written and orally transmitted in both English and the native language of the person entering into the agreement, prior to execution, if that person is not represented by counsel.* The bill would provide for ~~the waiver that~~ agreement to be rescinded upon the failure to comply with this requirement.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 1726 is added to the Civil Code, to read:*
2 *1726. (a) If a person who is entering any settlement,*
3 *compromise, covenant, release, waiver of liability, or similar*
4 *agreement, is not represented by counsel, that agreement, prior*
5 *to execution, shall be written and orally transmitted in both*
6 *English and the native language of the person entering into the*
7 *agreement.*

8 *(b) Upon a failure to comply with subdivision (a), the*
9 *aggrieved person may rescind the settlement, compromise,*
10 *covenant, release, waiver of liability, or similar agreement.*

11 ~~SECTION 1. Article 11 (commencing with Section 7740) is~~
12 ~~added to Chapter 1 of Division 4 of the Public Utilities Code, to~~
13 ~~read:~~

14
15 ~~Article 11. Waiver of Liability for Railroad Accidents~~
16

17 ~~7740. (a) Any person, firm, or corporation operating a~~
18 ~~railroad in this state that elects, in the event of a derailment, to~~
19 ~~offer payment to an affected party for his or her waiver of~~
20 ~~liability regarding any applicable cause of action, shall provide a~~
21 ~~written translation of the waiver agreement, prior to the~~
22 ~~execution thereof, in a language in which the person signing the~~
23 ~~waiver is fluent.~~

24 ~~(b) Upon a failure to comply with subdivision (a), the person~~
25 ~~aggrieved may rescind the waiver agreement.~~